

**Washington Department of Fish and Wildlife (WDFW)**  
**Oiled Wildlife Care Standards Rulemaking Stakeholder Workshop**  
**Summary**  
**December 18, 2003**

**Welcome and Introduction**

Eric Larsen, WDFW Oil Spill Team Manager, welcomed participants, stating that the purpose of the meeting was to update the group on the progress that has been made since the August workshop; gather input on the draft rule; and brief the group on the next steps in the rulemaking process.

**Rule Update**

Eric gave an update on what has happened since the August meeting.

- Information from the University of California Davis (UCD) report on critical components of oiled wildlife rescue has been updated. This information is being used to develop the draft rules. This report was also used to derive a list of subjects addressed by the rule.
- The Fish and Wildlife Commission was updated on the draft rule process. This update was captured by TVW and the link to it is on the WDFW rule web page.
- WDFW staff has met several times with Department of Ecology staff to discuss the issues affecting both agencies in the rule making process.

The intended timeline for the rule has been shifted to allow for further discussion with Ecology. A new CR101 will be filed in January; a CR 102 with the proposed rule language will be filed in April or May. A public meeting to gather comment on the rules will be held in June and a public hearing will be held on August 5 or 6 in conjunction with the meeting of the Fish and Wildlife Commission.

**Draft Rule**

The rule is divided into several subject areas. These are:

- The number of stations and space needed relative to the intake of oiled birds
- Pens related to the pre-wash holding areas
- Space and water quality needs for washing and rinsing
- Pen configuration for drying
- Pool configuration
- Static and semi-static space requirements
- Temperature and air exchange needed to facilitate air quality

**Questions on the Draft Rule:**

John Felton suggested that it is “procedures” being developed in the rule, rather than “standards.” Eric will check with the attorney general to determine if the rules are considered procedures or standards.

Ross McDonald asked how long it takes to process a bird through intake and where the break point is between having one intake station and multiple stations. Eric replied the number of stations depends on how backed up the birds are. UCD suggested an intake station can reasonably handle 60 birds a day with the proper space. If the number of birds is greater than what can be managed at a 60 bird per-day rate then the number of stations is increased.

Mike Condon requested WDFW use the same words in the definition that are used in the document relative to pre-wash holding.

Eric clarified birds are held in the pre-wash area until they are stable enough to enter the wash process. The requirements for space per bird in pre-wash are derived from the UCD report. There is a 24-48 hour hold time in the pre-wash area because some birds might be ready to wash right away and others may need up to 2 days until washing. The average reasonable time is 24 hours.

Frank Holmes asked why a two-foot area was required around pens. Eric explained that this area is needed for working around the pens.

Ross asked if the water requirements could be shown as flow rates instead of the total water used. The way the requirement is currently written makes it sound like there is a requirement for a big bucket of water. Eric noted the total was used because it shows how much water is typically used in one day, but WDFW will look at the suggestion about flow rates.

John Schumacher asked how deep the ponds have to be. The June UCD document stated the ponds must be three feet deep but Eric replied that the optimum depth is four feet to allow for the birds’ feeding behaviors (diving). John also asked if the 10-gallon/minute overflow rate was in the UCD study. Brian clarified that the 10-gallon rate was in the revised UCD document.

John, Ross, and Mike asked about pool configuration and whether fish hatchery ponds could be used as pools. Pools do not have to be round but they do have to meet the specifications identified in the rule.

Ross McDonald asked about heated pools. Eric clarified that the use of heated pools is mentioned because there is emerging technology related to warm water pools. The birds cannot be put into cold water if they are not waterproofed because they will succumb to hypothermia. Warm water pools allow the birds to stay in the water longer and to allow the feather coat to become waterproof.

Regarding discussion about food preparation areas, Eric explained that food preparation is not believed to be viable at an off-site location due to hydration and vitamin issues and the specific preparations for different birds. The UCD has been struggling with these issues for a number of years. Since the food preparation involves grinding up a great deal of fish and warming it to particular temperatures for different birds before feeding, if the facility were off-site, there would likely be numerous people setting up small facilities on-site to concoct these preparations because of the transportation issues. Eric clarified that the rules require an onsite food prep area but do not preclude an off-site preparation area.

Kip Parker pointed out that there is a need for different temperature zones and ventilation zones because not all birds need or can adapt to the same temperature. Eric committed to speak to UCD about this.

Mike Condon asked if primary care and transport requirements were intentionally left out of the draft rules. Eric said they were important elements but that other arenas such as ICS/NWACP, etc. could more appropriately deal with them.

The question was asked if these parameters would work using mobile supplies vs. an existing facility. Eric replied it would depend on the magnitude of the incident. This is not to infer that any particular approach is acceptable or unacceptable as long as it meets the proposed standards. John noted these standards could be difficult to meet in a field station.

John Schumacher asked if birds could be transported out of the state. Eric stated that WDFW and USFWS retain authority over the transportation of birds within and out of the state. When an ICS is activated for a spill, the question of using a facility in a different state will be addressed.

### **Implementation**

Linda Pilkey-Jarvis introduced Steve Hunter from Ecology who is heading the effort to coordinate WDFW's rule with Ecology's. Because of the complexity of integrating this rule with the Ecology contingency plan rule development, formal coordination meetings with Ecology have been established and talks have begun. Based on those talks, WDFW has decided to wait until August to adopt the rule. WDFW will participate in the contingency plan rule development and has committed all possible resources to the process. If there are significant changes to WDFW's rule, further input will be solicited at that time; however, there will continue to be opportunities to provide input and comment.

Steve commented several factors will affect the integration of WDFW standards into contingency plans, including the number of birds that would trigger a response, cost benefit analysis, agency shared workload and lines of responsibility, and what it means for reviewing a company's C-plan and compliance.

Several attendees asked if the Ecology rule will reference the WDFW standards and if the requirements will be scalable over reasonable time frames. Steve responded it is under discussion. Since this process is still in the scoping stages, the answers to many of these questions are not yet available.

Steve clarified that many issues are dependent upon what is needed for the birds to survive. The temporal issues are the critical components. The rules were organized so that the function or the space for the function is available when the bird is ready. The pieces related to time can be extracted from several sources, for example, the birds must be washed within 24 hours, which then lays out a timeline for the rest of the activities.

Frank Holmes stated a desire that rules be able to be addressed in a manner that is “scalable, reasonable, and palletizable.” Mike Condon asked if the wildlife care standards can be related to time performance expectations found in C-Plans.

Chris McCartan asked if data is available which describes the number of birds over time that would likely need to be handled during a spill. It is important for the oil and marine industries to understand the potential scope of what will be required. Eric commented that there is data from past oil spills; however, there has not been a major spill in Washington in the last 10 years. Chris stated a desire that the wildlife care standards be addressed in Ecology’s current C-Plan rule process. Chris stated that we don’t want to do this twice, referring to C-Plan development. Steve suggested the possibility of interim studies or phasing of the implementation of wildlife rules into C-Plans.

Mary Sue Brancato noted there is offshore bird data available through the University of Washington Coastal Observation and Marine Coast Sanctuary programs. In addition, WDFW has corporate data on the birds found in Puget Sound and offshore. Eric noted WDFW feels comfortable providing that type of information but feels less comfortable providing information regarding what a spill might look like and how industry should plan for it.

Chris clarified there could be different requirements at different locations in the state, potentially requiring a tremendous buildup of equipment for cleanup as well as for prevention. Eric again pledged that WDFW will continue to provide information and resources to the process, but they do not believe they have the authority to create the planning standards.

## **Conclusion**

This was the last of the planned stakeholder meetings. Formal comments on the proposed oiled bird care standards are requested from this group by the end of February. Comments can be submitted directly to Eric. WDFW intends to keep the attendees of this workshop informed of events and changes regarding the rule and information on how WDFW is working with Ecology. Eric thanked attendees for their participation and acknowledged the hard work of the WDFW Oil Spill Team.

## **Attendees**

Michael Bergey, WA State Vet. Board  
Mary Sue Brancato, Olympic Coast NMS  
Andy Carlson, WDFW  
Michael Condon, BP/OPLC  
John Felton, WSMC  
Steve Hunter, Ecology  
Frank Holmes, WSPA  
Chris Lane, WDFW

Eric Larsen, WDFW  
Brian MacDonald, WDFW  
Chris McCartan, Clean Sound Cooperative  
Ross McDonald, Foss Environmental  
Linda Pilkey-Jarvis, Ecology  
Sarah Price, Ecology  
John Schumacher, Tesoro

Lynn Lefkoff, EnviroIssues (Facilitator)  
Liana Herron, EnviroIssues (Note Taker)